

ORIGINAL

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

RECEIVED

FEB 16 1999

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
Logan, Utah)

MM Docket No. 98-211
RM-9349

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**REQUEST FOR
APPROVAL OF SETTLEMENT**

M. Kent Frandsen, by his attorneys, hereby requests approval of a settlement agreement between the two parties who have filed comments in the above-referenced proceeding. Mr. Frandsen filed a counterproposal requesting the allotment of Channel 252C2 to Evanston, Wyoming, a proposal in conflict with the initial proposal of L. Topaz Enterprises, Inc. ("L. Topaz") for the allotment of that channel at Logan, Utah. Commission records show the filing of no other comments in the proceeding.

Attached hereto is a Withdrawal of Expression of Interest submitted by L. Topaz. By this document, L. Topaz withdraws its interest in the Logan allotment. As set forth in documentation attached hereto, L. Topaz has been promised or paid only its out-of-pocket expenses in connection with this withdrawal. The documentation attached thereto complies with the requirements of Section 1.420(j) of the Commission Rules.

Given that L. Topaz has withdrawn the only expression of interest in the construction of a new station at Logan, that allotment cannot be made. Instead, the allotment requested by Mr.

No. of Copies rec'd 014
List ABCDE

Frandsen, of Channel 252C2 at Evanston, Wyoming should be made instead. Mr. Frandsen respectfully requests that this action be taken.

Respectfully submitted,

M. KENT FRANDSEN

By: 

David D. Oxenford

His Attorney

FISHER WAYLAND COOPER LEADER
& ZARAGOZA L.L.P.
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006
(202) 659-3494

Dated: February 16, 1999

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.**

In the Matter of)
)
Amendment of Section 73.102(b))
Table of Allotments)
FM Broadcast Stations)
Logan, Utah)

MM Docket No. 98-211
RM-9349

**WITHDRAWAL OF
EXPRESSION OF INTEREST**

L. Topaz Enterprises, Inc., pursuant to Section 1.420(j) of the Commission's rules, hereby
withdraws its expression of interest in the proposed allotment of Channel 252C2 to Logan, Utah.

L. Topaz Enterprises, Inc. is no longer interested in the allotment of that channel to Logan.

The documentation required by Section 1.420(j) is attached hereto.

L. TOPAZ ENTERPRISES, INC.

By: Dale A. Ganske
Dale Ganske, President

DECLARATION

I, Dale Ganske, hereby declare under penalty of perjury:

1. I am President of L. Topaz Enterprises, Inc.
2. In consideration for the withdrawal of the expression of interest in the allotment of Channel 252C2 to Logan, Utah, neither L. Topaz Enterprises, Inc. or any principal of that company will receive any consideration beyond the reimbursement of the legitimate and prudent expenses incurred in the filing of the rulemaking request.
3. The legitimate and prudent expenses total \$ 2,000. Documentation of those expenses is attached.
4. The only agreement for the dismissal of the expression of interest in the Logan channel is set forth in the letter agreement with M. Kent Frandsen attached hereto. No other consideration has been paid or promised for the withdrawal of this request.
5. The foregoing is true and correct to the best of my knowledge and belief.

L. TOPAZ ENTERPRISES, INC.

By: Dale A. Ganske
Dale Ganske, President

Jan. 28. 1999 7:14PM

No. 0167 K. 4/0

DECLARATION

I, Larry Fuss, hereby declare under penalty of perjury:

1. I am an engineering consultant retained by L. Topaz Enterprises, Inc. in connection with its proposal to allot FM Channel 252C3 to Logan, Utah.
2. In connection with the preparation of its Petition for Rulemaking, I have billed L. Topaz Enterprises \$ 2000, representing \$ 2000 of fees and \$ — of expenses. Fees were computed at \$ N/A per hour, with N/A hours of work being performed on this project. Such charges represent my usual and customary charges for similar services.
3. The foregoing is true and correct to the best of my knowledge and belief.

Larry Fuss
Larry Fuss

FROM :

FAX NO. : 14357533707

Jan. 28 1999 09:56AM PS

FROM :

PHONE NO. : 608 831 8708

Jan. 29 1999 08:54AM PS

DECLARATION

I, M. Kent Frandsen, hereby declare under penalty of perjury.

1. I have neither promised nor paid any consideration to L. Topaz Enterprises, Inc. except for that set out in the letter agreement attached hereto. This consideration is limited to that approved by the Commission as the legitimate and prudent expenses incurred by L. Topaz Enterprises in the preparation and prosecution of its request for the allotment of Channel 252C2 to Logan.
2. The foregoing is true and correct to the best of my knowledge and belief.



M. Kent Frandsen

January 28, 1999

Mr. Dale A. Ganske, President
L. Topaz Enterprises, Inc.
5546-3 Century Avenue
Middleton, WI 53562

Dear Mr. Ganske:

I hereby agree to reimburse L. Topaz Enterprises, Inc. for its expenses in the preparation and filing of its rulemaking request for the allotment of Channel 252C2 to Logan, in an amount not to exceed \$2,000, as approved by the FCC. This payment will be made following (1) the withdrawal of the expression of interest in the Logan channel, (2) the FCC's dismissal of the Logan request, approval of the withdrawal, and approval of the allotment of the Channel to Evanston, Wyoming, and (3) such FCC action becoming final, i.e. no longer subject to administrative or judicial review, reconsideration or appeal. I understand that you will provide to the FCC all documentation necessary to justify the payment of out-of-pocket expenses.

Sincerely,

A handwritten signature in cursive script, appearing to read "M. Kent Frandsen", written in dark ink.

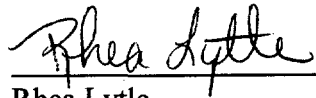
M. Kent Frandsen

CERTIFICATE OF SERVICE

I, Rhea Lytle, do hereby certify that I have this 16th day of February, 1999, mailed by first-class United States mail, postage prepaid, copies of the foregoing "**Request for Approval of Settlement**" to the following:

*Kathleen Scheuerle
Mass Media Bureau
Federal Communications Commission
2000 M Street, N.W., Room 556
Washington, D.C. 20554

Dale A. Ganske, President
L. Topaz Enterprises, Inc.
5546-3 Century Avenue
Middleton, Wisconsin 53562



Rhea Lytle

***Hand Delivery**